UNITED STATES DISTRICT COURT WESTERN DISTRICT OF NORTH CAROLINA ASHEVILLE DIVISION DOCKET NO. 1:16-cv-00144-MOC-DSC

TD BANK, N.A.,)	
Plaintiff,)	AMENDED ORDER
Vs.)	AMENDED ORDER
BILTMORE INVESTMENTS, LTD,)	
Defendant)	

THIS MATTER is before the court on Defendant and Counterclaimant Biltmore

Investment's Motion for Extension of Time (#12) to File a Response to Counterclaim Defendant

TD Bank's Motion to Dismiss Defendant's Counterclaims (#10). This court previously entered
an Order granting the Motion (#13) and then received TD Bank's Response. That Response
correctly notes several defects in Biltmore's Motion, i.e. that it was filed out of time and failed to
reflect consultation with TD Bank. See LCvR 7.1(B). Despite these defects, the court notes that
it routinely grants motions for extensions of time, particularly for first-time requests, and does
not see any reason to change its prior Order. Moreover, the court finds that an extension will not
prejudice TD Bank despite the filing defects. Having considered the motion and reviewed the
pleadings, the court enters the following Order.

ORDER

IT IS, THEREFORE, ORDERED that Defendant and Counterclaimant Biltmore

Investment's Motion for Extension of Time (#12) to File a Response to Counterclaim Defendant

TD Bank's Motion to Dismiss Defendant's Counterclaims (#10) is **GRANTED** <u>nunc pro tunc</u>, and Defendant is allowed up to and inclusive of September 9, 2016, to so respond.

Counsel for Biltmore is further advised to consult and comply with the Local Rules as well as the Rules of Civil Procedure before filing Motions.

Signed: August 19, 2016

Max O. Cogburn Ji

United States District Judge

-2-